



IN THE MATTER OF:

Complainant,

and

GATX LOGISTICS, INC.,

Respondent.

EEOC: 21 B 950439

ALS NO: 10401

This matter appears on Respondent's, GATX Logistics, Inc.'s, Motion for Summary Decision and a Memorandum in Support of that motion with affidavits and exhibits attached. Complainant, Sonia Rivera, did not file a Response. This matter is ready for decision.

Complainant filed a charge with the Illinois Department of Human Rights (Department) on November 10, 1994 (Charge No. 1995 CF 1197). The Department filed a complaint with the Illinois Human Rights Commission (Commission) on March 23, 1998, alleging discrimination on the basis of gender relating to pregnancy, in violation of Section 2-102(A) of the Illinois Human Rights Act.

GATX hired Complainant as a packager on November 17, 1993. Respondent states that on January 13, 1994, Complainant was terminated because she did not work fast enough to meet Respondent's production needs. Respondent notes that Complainant

was terminated during her 90-day probationary period. Also, Respondent states that at no time did Complainant's supervisors, or anyone involved in the decision to terminate Rivera know that she was pregnant. Complainant did not file a Response to Respondent's Motion for Summary Decision.

Findings of Fact

1. Complainant's sex is female.
2. Complainant was hired by Respondent as a packager on November 17, 1993.
3. Complainant was terminated on January 13, 1994 because she did not work at the pace required to meet Respondent's needs.
4. The date of Complainant's termination falls within her 90 day probationary period.
5. At no time was anyone involved in the decision to terminate Complainant aware of her pregnancy.

Discussion

Paragraph 8-106.1 of the Illinois Human Rights Act, 775 ILCS 5/101-1 *et seq.*, specifically provides that either party may move, with or without supporting affidavits, for a summary order in its favor. If the pleadings and affidavits, if any, show that there is no genuine issue of material fact and that the moving party is entitled to a recommended order as a matter of law, the motion must be granted. The Commission has adopted standards used by Illinois courts in considering motions for summary judgment for motions for summary orders, and the Illinois Appellate Court has affirmed this analogy.

Cano v. Village of Dolton, 250 Ill.App3d 130, 620 N.E.2d 1200, 189 Ill.Dec. 833 (1st District 1993).

There is no issue of material fact as to the allegations of the complaint in the case at bar. In order to prevail on a claim of pregnancy related discrimination, a complainant must show she was pregnant, subject to adverse action, and that non-pregnant employees were treated more favorably. Benjamin and Spring Lake Country Club, Ill. HRC Rep. (1988SF0520, June 15, 1994). Also, a prima facie case of pregnancy discrimination may be established simply by showing that an adverse employment action was taken soon after the employer became aware of an employee's pregnancy. Holub and Payco American Corp., 7 Ill. HRC Rep. 161 (1982); Cook and Harry W. Kuhn, Ill. HRC Rep. (1992CF3317, February 23, 1996).

The method of proving a charge of discrimination through indirect means is also well established. First, complainant must establish a prima facie showing of discrimination. If (s)he does so, respondent must articulate a legitimate, non-discriminatory reason for its actions. In order for complainant to prevail, (s)he must then prove that respondent's articulated reason is pretextual. Zaderaka v. Human Rights Commission, 131 Ill.2d 172, 545 N.E.2d 684 (1989).

Complainant cannot make a prima facie case of discrimination. She provides no evidence that non-pregnant employees were treated more favorably. Also, Respondent has provided the sworn affidavit of Mark Walker, General Manager at GATX, stating that neither he, nor Complainant's supervisors knew that Complainant was pregnant. She provided no affidavits or other evidence to contest this assertion. Clearly, Respondent

would have to be aware that Complainant was pregnant in order to have discriminated against her on that basis.

Further, Walker articulates that Complainant was terminated because she worked too slowly; he states that other employees produced at twice the rate of Rivera. (*Walker's Affidavit, par. 5-7*). Respondent has articulated a legitimate, non-discriminatory reason for Rivera's discharge. Complainant has offered no evidence that Respondent's reasons for terminating her are pretextual.

Conclusions of Law

On the basis of the controlling precedent, statutory authority, the findings of fact and the discussion, I conclude that no material issues fact exist and that Respondent Chicago Corp. is entitled to a judgment as a matter of law.

Recommended Order

For the foregoing reasons, I recommend that Respondent's Motion for Summary Decision be GRANTED, and the complaint be DISMISSED in its entirety, with prejudice.

HUMAN RIGHTS COMMISSION

BY:
WILLIAM H. HALL
ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION

ENTERED: March 30, 2001